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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 17 April 2003 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Chairman of the Committee

Pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003), I attach a report from Her Majesty's Government on the steps taken to implement and enforce the mandatory measures contained in the above-mentioned resolution (see annex).

Please do not hesitate to contact me if you require any further information on any aspect of United Kingdom implementation and enforcement of resolution 1455 (2003).

(*Signed*) Jeremy **Greenstock**

03-35294 (E) 230503

Annex to the letter dated 17 April 2003 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Chairman of the Committee

Report of the United Kingdom pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

Section I
Introduction

1. The UK is not aware of any direct activity by Usama Bin Laden or the Taliban within the UK. The UK is aware of the activities of Al-Qa'ida within its borders, and takes action where appropriate. The UK recently prosecuted two individuals for offences related to financing terrorism. The UK is giving consideration to submitting a request to the Committee to add their names to the Consolidated List, providing a sound link to the Al-Qa'ida organisation can be stated.

Section II
Consolidated list

2. Please see the relevant sections below for details of how the 1267 Committee's List been incorporated within the UK's legal system and administrative structure. The United Nations Department of the Foreign and Commonwealth Office ensures that amendments to the list are transmitted to government departments and posts overseas.

3. The UK has not encountered any problems with implementation with regard to the names and identifying information as currently included in the List.

4. The UK has taken appropriate action against designated individuals and entities identified within the UK. Abu Hamza al-Masri has been made subject to the measures set out by the appropriate resolutions. The Home Secretary has recently decided to remove Abu Hamza's UK citizenship status, but this is currently subject to an appeal process. Assets of other persons have been frozen within the UK.

5. When able to do so without compromising ongoing investigations or prosecutions the UK will submit names of persons and entities associated with Usama Bin Laden or members of the Taliban or Al-Qa'ida that have not been included in the List.

6. No listed individuals or entities have brought a lawsuit or engaged in legal proceedings against the UK for inclusion in the List.

7. The UK will provide additional information on those persons already on the List when the information becomes available and we are able to do so.

8. The Terrorism Act 2000 contain provisions to proscribe, or ban, organisations connected with terrorism. Proscription means that an organisation is outlawed in the UK and that it is illegal for it to operate here. The Terrorism Act 2000 makes it a criminal offence to belong to, support, or display support for a proscribed organisation. Al-Qa'ida is designated as one of 25 international groups proscribed in

the UK. Section 54 of the Terrorism Act also provides for the offence of weapons training, liable to a sentence of up to ten years if found guilty on conviction.

Section III
Financial and economic asset freeze

9. UNSCR 1373 is implemented in the UK by the Terrorism (United Nations Measures) Order 2001. UNSCR 1390 is implemented by the Al-Qa'ida and the Taliban (United Nations Measure) Order 2002 which revoked the earlier Afghanistan (United Nations Measures) Order 2001. No impediments exist in this context.

10. All UK Government departments involved in the fight against terrorist financing are committed to effective multilateral working, enabling effective monitoring of our progress leading to identification of and planning for areas requiring further action. Reporting ultimately to one of the Ministerial committees, chaired by the Home Secretary, a Whitehall-wide range of co-ordination committees has been set up. The UK takes a leading role in EU action as well as at the international level through the G7/8, FATF and IMF. In October 2002, the Treasury published a report *'Combating the financing of terrorism: A report on UK action'* (http://www.hm-treasury.gov.uk/documents/international_issues/terrorist_financing/int_terrorfinance_combatfinance.cfm).

11. Banks and other financial institutions are required to identify, freeze and report the funds of any person who the Treasury has reasonable grounds to suspect commits, facilitates or commissions acts of terrorism (the Terrorism (United Nations Measures) Order) and/or is a listed person or is acting on behalf of a listed person (the Al Qa'ida and the Taliban (United Nations Measure) Order) to the Bank of England. Under UK legislation, financial institutions are required to collect Know Your Customer (KYC) information and this information has been invaluable in identifying individuals and organisations on the sanctions list. These requirements are rigorously enforced.

12. The UK has currently frozen £334,428.14. This figure reflects the fact that much of the £115 million frozen both before and after September 11th has been unfrozen under UNSCR 1390 and made available to the legitimate government of Afghanistan.

13. No funds have yet been released in the UK pursuant to resolution 1452.

14. The Bank of England, acting as the agent of HM Treasury, informs UK financial institutions of the additions to the list of individuals whose assets should be frozen electronically. A consolidated list of names of all those subject to sanctions is available on the Bank of England website (www.bankofengland.co.uk/sanctions/main.htm). All UK financial institutions are required to submit Suspicious Transaction Reports to the National Criminal Intelligence Service (NCIS) for rigorous review and evaluation. The Anti-Terrorism Crime and Security Act 2001 provides for the seizure of all assets of those connected to, or facilitating terrorism. The Charity Commission for England and Wales has extensive powers of regulation, including powers to require production of information, to freeze bank accounts, to suspend or remove trustees, and to investigate and rectify wrongdoing in charities. It is proactive in ensuring that

charities are not connected with terrorist organisations, investigating reports of such links and liasing with law enforcement agencies to mount criminal prosecutions where appropriate. Charities in Scotland are regulated by the Scottish Charities Office and in Northern Ireland by the Police Service of Northern Ireland and the Department for Social Development. Alternative remittance systems such as 'Hawala' are subject to the Money Laundering Regulations 2001.

Section IV
Travel bans

15. The UK has implemented the travel ban in paragraph 2b of UNSCR 1390(2002) using secondary legislation under Section 8B of the Immigration Act 1971(as inserted by Section 8 of the Immigration and Asylum Act 1999). The secondary legislation - the Immigration (Designation of Travel Bans)(Amendment) Order 2002 came into force on 6 February. Up until this date the measures had been implemented on an administrative basis. The Immigration Act provides for the exclusion from the UK of persons subject to such United Nations or EU travel bans as have been designated by Order. Under Section 8B unless one of the exceptions set out in the designating Order applies, an excluded person must either be refused leave to enter or remain in the UK, or have his existing leave cancelled. The travel ban is implemented administratively in the UK Overseas Territories and Crown Dependencies.

16. The UK includes, and regularly updates, all the names of those individuals identified as associated with the Taliban or Al-Qa'ida under the UNSCR 1390 on its "stop list" referred to as the "Warnings Index" system. On each occasion the List is updated the details of those individuals or companies who are either to be added or deleted from the List are scrutinised by the Foreign and Commonwealth Office against previous records. The new details are then sent as a priority to those responsible for data entry in the Immigration Service at the Warnings Index Control Unit. The process works effectively by all parties with few problems encountered.

17. The UK's Warnings Index system is regularly updated on each occasion that an amendment is made to the List. The List on the Warnings Index system and the electronic database is available at all approved ports of entry and non-approved ports attend by Immigration Officers.

18. We are not aware of anyone named on the List being encountered at one of the UK's ports of entry. If an individual were to seek entry to the UK and was found to accurately represent the details of those on the warnings index they would have been identified.

19. The Warnings Index system is held electronically at all UK visa issuing posts abroad. Weekly updates are issued of any amendments and where necessary interim instructions are sent by the Sanctions Unit. As with all applications for those who apply for visas to enter the UK, those subject to the List would be scrutinised against the details held on the Warnings Index. There is no record of an individual matching the details of those on the List as having been issued with a visa to enter the UK.

Section V
Arms embargo

(Given the nature of the UK's export control system, the answers to the questions in this section are taken together.)

20. A prohibition on the supply, delivery or export of arms and related materiel to Usama bin Laden, members of the Al-Qa'ida organisation and the Taliban and other individuals and entities associated with them, including the provision of spare parts and technical advice, assistance or training related to military activities is contained within the provisions of The Al-Qa'ida and Taliban (United Nations Measures) Order 2002 (SI 2002/111) which came into force on 25 January 2002.

21. Weapons of mass destruction (WMD) are not included in the generally accepted definition of arms and related materiel. This definition relates solely to conventional weapons and associated goods and technology. That said, as a member of all the WMD export control non-proliferation regimes (Nuclear Suppliers Group, Missile Technology Control Regime and Australia Group) the UK is able to exercise control over the export from the UK of such items and technology that may be used for the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons. As with all other EU Member States, the basis for our controls in this area is Council Regulation (EC) 1334/2000 as amended. The Regulation contains a list of dual-use items and technology that cannot be exported without a licence. In addition the Regulation includes a "catch-all" control that prevent the export of non-listed goods if the exporter knows or is informed that they may be used in a WMD programme.

22. All applications for licences for the export of arms or dual-use items and technology to all destinations are screened against the consolidated list issued by the 1267 Committee. Any potential matches are investigated and if a match was found the licence would be refused.

23. The Order (SI 2002/111) includes penalties for infringement of the arms embargo. On conviction on indictment the maximum prison sentence is 7 years or a fine or both.

24. The provisions of The Order (SI 2002/111) make it an offence for any person to do any act calculated to promote the supply or delivery of arms and related materiel to any person on the consolidated list. This wide provision in our legislation means that any person in the UK or a citizen or body incorporated or constituted under our law abroad involved in such activity (including brokering but extending to other activity such as arranging transport or finance) would have committed an offence. An arms brokering licensing system is therefore not required to prevent such activity.

25. As to safeguards that weapons and ammunition produced within our country will not be diverted/used by those on the consolidated list, we do in addition to the provisions of The Order (SI 2002/111) also regulate the holding of weapons and ammunition by individuals and entities within the UK. It is an offence to possess weapons and ammunition without a licence. Under the provisions of The Firearms Act 1968 as amended, there are strict controls over the types of weapons and

ammunitions that can be legally held. Those producing, trading in or possessing weapons must account for all their holdings including disposals and acquisitions.

Section VI
Assistance and conclusion

26. The UK is willing to assist any States requesting advice or guidance. The UK has fully implemented all relevant measures of the United Nations sanctions. Additional information on the UK's action against terrorism can be found in our reports to the Counter-Terrorism Committee (www.un.org/Docs/sc/committees/1373).

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Letter dated 15 April 2003 from the Permanent Representative of Canada to the United Nations addressed to the Chairman of the Committee

Security Council resolution 1455 (2003) calls upon all States to report to the Committee on how they have implemented the measures contained in paragraph 1, which includes reference to paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002).

I would be grateful if you would inform the Committee that Canada has implemented all of these measures through, inter alia, legislative and regulatory instruments, as described in the attached document (see annex).

(*Signed*) Paul **Heinbecker**
Ambassador and Permanent Representative

03-35070 (E) 020603

Annex to the letter dated 15 April 2003 from the Permanent Representative of Canada to the United Nations addressed to the Chairman of the Committee

Report of Canada pursuant to Security Council resolution 1455 (2003)

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

In Canada, there are individuals who support, or are sympathetic to bin Laden, al Qaida or its affiliated organizations, or adhere to their ideologies. Canada's al Qaida presence includes individuals who have passed through the training camps in Afghanistan and are familiar with weapons and explosives. The fact that there is no organized al Qaida presence in Canada means that al Qaida sympathizers in this country are limited with respect to planning and continuity of operations, initiative and focus.

In a statement made on November 12, 2002, bin Laden specifically identified certain countries, including Canada, that allied themselves with the US in the campaign against terrorism. This was the first time that Canada has been specifically mentioned in a statement issued by bin Laden. Despite earlier beliefs that Canada and Canadians were never the focus of al Qaida, this statement has heightened the possibility and concern regarding an attack within Canada, against either US interests or Canadian targets and against Canadian interests abroad.

II. Consolidated list

2. **How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

The 1267 list has been incorporated into Canada's legal system in two ways. The 1267 list has been incorporated by reference into Canada's *United Nations Afghanistan Regulations*, which were made imposed by these Regulations. These Regulations also prohibit the provision of arms to the Taliban.

The 1267 list has also been incorporated by reference into Canada's *United Nations Suppression of Terrorism Regulations*. These Regulations provide for an asset freeze for all persons or entities on the 1267 list and furthermore, prohibit fund raising on behalf of persons listed in a schedule to the Regulations. These Regulations also require financial institutions to report monthly to regulators on any assets of listed persons in their possession. They also require any person in Canada or Canadian outside of Canada to disclose to the police and intelligence service the existence of any property of a listed person in their possession. These Regulations also prohibit making available any property for the benefit of a listed person which would include arms.

The 1267 list is regularly provided on the website of the Office of the Superintendent of Financial Institutions (OSFI) which is accessible by Canadian financial institutions.

The *Immigration and Refugee Protection Act* contains provisions for the denial of entry and removal from Canada of suspected terrorists.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.**

The absence of appropriate identifiers makes it difficult at times to assess whether a person is the listed person. This requires additional work to be done by law enforcement authorities, thereby delaying the process, and at times affecting innocent individuals whose assets may have been frozen.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

No

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.**

N/A

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.**

No

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

Yes — Ahmad Sa'id al-Kadr (Canadian citizen who is no longer resident in Canada).

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.**

The *Anti-terrorism Act* amended the *Criminal Code of Canada* to create several offences related to terrorism. Under the *Criminal Code*, it is a crime to knowingly participate in, contribute to or facilitate the activities of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity. In addition, any indictable offence under any Act of Parliament that is done for the benefit of, at the direction of, or in association with a terrorist group, carries a maximum sentence of life imprisonment. An offender convicted of any indictable offence that is also a terrorist activity would be liable to life imprisonment. Terrorist activities are defined in the *Criminal Code*.

Canada's *United Nations Suppression of Terrorism Regulations* prohibit fund raising on behalf of listed persons.

III. Financial and economic asset freeze

9. **Please describe briefly:**

•the domestic legal basis to implement the asset freeze required by the resolutions 1267 4(b), 1390 1 and 2(a);

Paragraph 4(b) of resolution 1267, paragraph 8(c) of resolution 1333 and paragraphs 1 and 2(a) of resolution 1390 are implemented in Canada by way of the *United Nations Afghanistan Regulations*, which were made on November 10, 1999. Section 4 of those Regulations effectively requires the freezing by persons in Canada and Canadians outside Canada of the assets of the Taliban, as designated by the Committee. The Regulations were amended on February 22, 2001 to implement resolution 1333 and freeze the assets of Osama bin Laden or his associates, as designated by the Committee.

Paragraph 2(c) of resolution 1390 has been implemented through Section 4 of the *United Nations Suppression of Terrorism Regulations*, which prohibits dealing in the property of a listed person (which includes those persons listed by the Committee), entering into any transaction with a listed person, and making any property available for the benefit a listed person.

•any impediments under your domestic law in this context and steps taken to address them.

No

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

Canada's *Proceeds of Crime and (Money Laundering) and Terrorism Financing Act* (PCMLTFA), amended December 2001, was made, in part, to implement specific measures to detect and deter money laundering and the financing of terrorist activities and to facilitate the investigation and prosecution of money laundering and terrorist financing offences. Individuals and businesses that are identified in the Act are required to report certain prescribed transactions to Canada's Financial Intelligence Unit, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). When FINTRAC determines that there are reasonable grounds to suspect that the information would be relevant to investigating or prosecuting a money laundering or terrorist financing offence, it will disclose only designated information to the appropriate law enforcement authorities.

Canada's federal law enforcement authority, the Royal Canadian Mounted Police (RCMP), has increased its capacity to track, detect and dismantle the financial capabilities of terrorists through the creation of a Financial Intelligence Branch. In the December 12th, 2001, Federal Budget announcement, the RCMP received a total of $576 million earmarked exclusively for national security initiatives. These funds will be used to respond to existing and emerging national security threats.

In addition to those efforts, a section of the *Criminal Code* imposes the obligation on any person in Canada and every Canadian outside of Canada to communicate to the RCMP and the Canadian Security and Intelligence Service (CSIS) the existence of property, or of transactions or proposed transactions in relation to property owned or controlled by or on behalf of a terrorist group. A contravention of this obligation constitutes an offence.

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

Financial institutions operating in Canada are required to determine on a continuing basis whether they are in possession or control of property owned or controlled on behalf of terrorist organizations or individuals listed under Canadian law (which includes Osama bin Laden or members of al Qaida or the Taliban, or associated entities or individuals) ("listed person"). Financial institutions are required to disclose immediately to law

enforcement (RCMP) and intelligence agencies (CSIS and FINTRAC) information related to property if financial institutions have reason to believe that the property is controlled by or on behalf of a listed person.

In addition, financial institutions operating in Canada are required by law to report aggregate information (currently monthly) to their regulatory authorities that they are not in possession of property owned or controlled on behalf of a listed person or if they have reasonable grounds to believe that they are in possession, the aggregate information related to total number of persons, contracts or accounts and the aggregate value of property associated with a listed person. Financial institutions must make their own determination as to whether they are dealing with a listed person. Merely identifying the same name as that of a listed person is not sufficient. Institutions must conduct additional due diligence such as reviewing their records and dealings with the person in order to satisfy themselves that a person whose name is the same as, or similar to that of a listed person is actually a listed person.

If financial institutions are unable to conclude that the person is not a listed person they are encouraged to consult with law enforcement (RCMP) to see if law enforcement might be able to provide additional information to assist in making such a determination.

The PCMLTFA imposes certain reporting, record-keeping and client identification requirements on financial institutions operating in Canada.

The records that must be kept vary depending on the reporting entity in question. In general, entities must keep the following records:

1. Large cash transaction records
2. Account opening records
3. Certain records created in the normal course of business
4. Certain records about the operation of an account
5. Foreign currency exchange transaction tickets
6. Trust related records (trust companies)

With respect to "know your client" requirements, financial institutions must identify their clients in the following situations:

1. Any large cash transaction of $10,000 or more
2. Any international wire transfer of $10,000 or more
3. Any personal or business account opening
4. Any foreign exchange transaction of $3,000 or more

In addition, financial institutions must identify non-account holders when they purchase or redeem $3,000 or more in travellers' cheques, or they remit or transmit $3,000 or more through any means.

For the purposes of the PCMLTFA, client identification requires financial institutions to obtain an original copy of a passport, birth certificate, or piece of identification issued by a federal or provincial government (e.g. Driver's license).

In order to report suspicious transactions effectively, reporting entities are required to know both their client and what is normal for their client's business. In addition, a list of indicators has been provided to reporting entities to help them identify suspicious transactions. Guideline #2 on FINTRAC's website (www.fintrac.gc.ca) can be consulted for more information.

12. **Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities." Please provide a list of the assets that have been frozen in accordance with this resolution.**

To date Canada has frozen approximately $340, 000 in 17 accounts in Canadian financial institutions.

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

No

14. **Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities.**

Immediately after the UN Security Council has added additional names to its consolidated list, the Office of the Superintendent of Financial Institutions (OSFI), sends letters by facsimile to all federally regulated financial institutions under its jurisdiction to inform them of the additions. Other regulatory bodies of financial institutions in Canada including provincial regulators and self-regulating organizations are sent the same facsimile so that they may also inform the financial institutions subject to their oversight of the changes.

The list of financial institutions informed would include banks, trust companies, loan companies, cooperative credit societies and centrals, credit unions, caisses populaires, securities dealers, entities authorized to provide portfolio management and investment counseling, life insurance companies, property and casualty insurance companies and fraternal benefit societies.

In addition, at the same time as OSFI informs the financial institutions and regulatory bodies, it posts a copy of the letter and the updated lists on its website so that all interested parties can access this information in as timely a manner as possible.

In addition, specific offences dealing with the financing of terrorism have been enacted. Therefore, 1) providing or collecting property knowing or intending that it be used for, *inter alia*, a terrorist activity, 2) providing or making available property or financial, or other related services, knowing, *inter alia*, that it will be used by a terrorist group, and 3) using property to facilitate or carry out a terrorist activity or possessing property knowing or intending that it be used for the same purpose, all are offences aimed at preventing that resources be made available to terrorist groups.

•The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.
•Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.
•Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.

The PCMLTFA covers the following reporting entities: financial institutions, such as banks, credit unions, caisses populaires, and trust and loan companies; casinos; money services businesses; foreign exchange dealers; life insurance companies; securities dealers; accountants; and real estate brokers and agents.

The above reporting entities have certain reporti ting, record-keeping, and client identification requirements. All reporting entities must identify and report suspi icious transactions and large cash ($10,000 or more) transactions to FINTRAC. In addition, financial institutions, s, foreign exchange dealers, and money services businesses must report the transmission or receipt of internation al wire transfers of $10,000 or more.

Reporting entities must file a Terrorist Property y Report when they have a requirement to freeze assets under the *Criminal Code*. As a reference, all reporting en ntities are referred to the Solicitor-General website and the OSFI website. If reporting entities are still in doubt a as to the identity of a potentially listed individual or entity, they are encouraged to consult the RCMP.

Reporting entities must also implement a compl pliance regime consisting of four elements:

1. the appointment of a compliance officer;
2. the development and application of compl pliance policies and procedures;
3. a periodic review of compliance policies a and procedures to test their effectiveness;
4. an on-going compliance training program for r any employees or agents or any other individuals authorized to act on behalf of the reporting entity.

In addition to the above reports, all Canadian in ndividuals and businesses must declare to the Canada Customs and Revenue Agency (CCRA) whenever they cross s the border carrying $10,000 or more in cash or monetary instruments. A similar declaration must be ma de when individuals or businesses send $10,000 or more in cash or monetary instruments into or out of Canada. F ailure to do so will result in seizure of the funds, and forfeiture will ensue unless it is demonstrated that the funds a are not proceeds of crime. Both declarations and seizure reports are sent to FINTRAC.

FINTRAC analyzes all reports, as well as other r information supplied voluntarily by law enforcement or the general public, for evidence of money launderi ing or the financing of terrorist activities. When FINTRAC has reasonable grounds to suspect that information n is relevant to the investigation or prosecution of a money laundering or terrorist financing offence, it may y disclose certain identifying information to the appropriate law enforcement agency.

For more information on the requirements for r reporting entities, please consult FINTRAC's website at www.fintrac.gc.ca and refer to the "Guidelines s" section.

•Restrictions or regulations, if any, placed or n the movement of precious commodities such as gold, diamonds and other related items.

The PCMLTFA does not place any requirements o on transactions dealing with high value commodities such as diamonds, gold, or jewelry.

•Restrictions or regulations, if any, applicable t to alternate remittance systems such as -- or similar to -- "hawala", as well as on charities, cultural and other non-p profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.

Insofar as alternative remitters are engaged in t the business of a money services business, they are captured as a reporting entity under the PCMLTFA and are s subject to the requirements listed above.

Charities and other non-profit organizations ar re not captured under the PCMLTFA. Any transactions they conduct with reporting entities that satisfy the reporting thresholds (dollar amounts or reasonable suspicion) would be reported to FINTRAC.

One exception is charity casinos. All charities operating a casino are covered as casinos under the PCMLTFA unless the business is carried in the establishment of a casino for not more than two (2) consecutive days at a time under the supervision of an employee of the establishment.

The *Anti-terrorism Act* brought special legislative provisions into force to discourage the use of charities as a means by which terrorist groups fund-raise and provide cover for other forms of support to terrorism. Under the *Charities Registration (Security Information) Act*, an organization may be disqualified from registration or be ineligible to apply as a charity for purposes of the *Income Tax Act* where there are reasonable grounds to believe that it has made, makes or will make any of its resources available to a "listed entity" as defined in the *Criminal Code*, or to any other entity that is engaged in activities in support of terrorist activities. The effect of such disqualification or ineligibility is that the organization cannot offer tax benefits to donors and is ineligible to receive grants from other registered charities, greatly diminishing both its credibility and financial viability. An organization whose registered status is revoked under these provisions is required to distribute all of its assets to other registered charities or pay a revocation tax that is equal to the value of any undistributed assets

IV. Travel ban

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

Paragraph 2(b) of Resolution 1390 is enforced by virtue of Section 34 and 35 of the *Immigration and Refugee Protection Act* (IRPA); and corresponding immigration controls at our posts overseas, Ports of Entry, and our inland offices. Paragraph 34(1)(c) and 34(1)(f) of the IRPA render permanent residents or foreign nationals inadmissible to Canada on several security grounds including terrorism.

Members of al Qaida and persons associated with Osama bin Laden's regime are inadmissible under paragraphs 34(1)(c) and (f) of the IRPA. Members of the Taliban regime as senior officials of a regime designated by the Minister of Citizenship and Immigration, which may have engaged, or may engage in terrorism, are inadmissible to Canada.

In addition, individuals which have membership in an organization where there are reasonable grounds to believe has engaged, or will engage in acts of terrorism, or subversion of government are also inadmissible to Canada. Paragraph 34(1)(d) of IRPA also provides the legal authority to prevent the entry to Canada of persons where there are reasonable grounds to believe the person seeking entry to Canada poses a threat to public safety generally, including terrorism.

Section 35 of IRPA renders individuals inadmissible to Canada if there are reasonable grounds to believe that the person may have violated human or international rights for committing crimes against humanity and war crimes. Moreover, section 35(1)(b) of the IRPA specifies that individuals involved in systematic or gross human rights violations, genocide, war crimes or crimes against humanity are inadmissible to Canada.

16. **Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

Citizenship and Immigration (CIC) Intelligence has entered the names of the listed individuals into an immigration database Field Operations Support System (FOSS) with a "look out" advisory. This advisory alerts immigration officers overseas, at Ports of Entry and inland offices in Canada that the individual is inadmissible to Canada. No difficulties have been encountered in using the stop lists thus far.

As part of a recently implemented Advance Passenger Information / Passenger Name Recognition (API/PNR) initiative, Canada – US Joint Passenger Analysis Units also incorporate the stop lists when screening airline passengers. CIC along with the Canadian Customs and Revenue Agency (CCRA) and US border agencies have implemented Joint Passenger Analysis Units allowing Canadian and US immigration officers to screen passenger information before the flight arrives. Airline passenger manifest lists are screened while passengers are in transit against enforcement databases which includes FOSS lookouts and the incorporated stop lists. Passengers of concern are referred for an examination by either CIC or CCRA officials upon arrival.

17. **How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?**

The US State Department (Office of Counter-Terrorism) provides CIC Intelligence with information from their TIPOFF system which contains the names and information of suspected terrorists. This database is updated monthly.

18. **Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

CIC has not encountered any of the listed individuals at any of the border points. As a result, there have been no interdiction, or enforcement action required.

19. **Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?**

Please see answers to questions 16 and 17.

V. Arms embargo

20. **What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

Section 4 of the *United Nations Afghanistan Regulations* and Section 4 of the *United Nations Suppression of Terrorism Regulations* prohibit making available any property, including arms, for the benefit of a person on the 1267 consolidated list (see the portion of the response in question 14 dealing the offences of terrorist financing). For some time, Canada has had a system of strict control over the import, export and internal possession of firearms and military weapons and explosives through the *Export and Import Permits Act* and the *Criminal Code*.

The Export and Import Controls Bureau of the Department of Foreign Affairs and International Trade (DFAIT) is responsible for administering the *Export and Import Permits Act* (EIPA) which was first enacted in 1947. The EIPA delegates to the Minister of Foreign Affairs wide discretionary powers to control the flow of goods contained in the *Export Control List*.

While the economic benefits of free-flowing trade are one of Canada's greatest assets, controls have been judged essential for a variety of reasons:

- to regulate trade in military and strategic dual-use goods, and prevent the proliferation of weapons of mass destruction, as we are obliged to do under multilateral agreement;
- to prevent the supply of military goods to countries that threaten Canada's security, are threatened by internal or external conflict, and/or abuse the human rights of their citizens;
- to fulfil other international obligations; and
- to implement UN Security Council trade sanctions and embargoes.

Under current export control policy guidelines approved by Cabinet in 1986, Canada closely controls the export of military goods and technology to countries:

- which pose a threat to Canada and its allies;
- which are involved in or under imminent threat of hostilities;
- which are under United Nations Security Council sanctions; and
- whose governments have a persistent record of serious violations of the human rights of their citizens, unless it can be demonstrated that there is no reasonable risk that the goods might be used against the civilian population.

21. **What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

The export of military goods without an export permit (which would not be granted for Osama bin Laden, al-Qaida or Taliban) is a violation of the *Export and Import Permits Act* .

22. **Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

N/A

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?**

A permit would not be granted if there was any reason to believe the goods would be diverted to Osama bin Laden, al Qaida or Taliban. This is enforced by Canadian Customs and Revenue Agency and relevant police authorities.

VI. Assistance and conclusion

24. **Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

Please see Canada's Directory of Assistance submitted to the United Nations Counter-Terrorism Committee (http://domino.un.org/ctc/CTCDirectory.nsf).

25. **Please identify areas, if any, of any incomplete implementation of the Taliban/al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.**

N/A

26. **Please include any additional information you believe pertinent.**

N/A

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Note verbale dated 17 April 2003 from the Permanent Mission of New Zealand to the United Nations addressed to the Committee

The Permanent Mission of New Zealand to the United Nations presents its compliments to the United Nations Security Council 1267 Committee and has the honour to present the report of New Zealand as required under United Nations Security Council resolution 1455 (2003) (see annex).

03-35095 (E) 020603

Annex to the note verbale dated 17 April 2003 from the Permanent Mission of New Zealand addressed to the Committee

Response of New Zealand to the Security Council Committee under Security Council resolution 1455 (2003)

New Zealand is fully committed to combating international terrorism in all its forms and to co-operating with the United Nations and its Member States in this pursuit. New Zealand is fully aware that the Taleban/Al Qaeda sanctions regime as administered by the UN Security Council Committee established pursuant to Resolution 1267 ('the 1267 Committee') constitutes a key instrument in the fight against terrorism and that cooperation among Member States, the 1267 Committee and the Monitoring Group is critical to the improved implementation of the sanction measures. New Zealand submits this report in response to paragraph six of UN Security Council Resolution 1455 and specifically in response to the questions set out in the related 'Guidance for reports' document.

I. Introduction

1. There has been no detected activity by Usama bin Laden, Al Qaeda or the Taleban and their associates in New Zealand to date. No specific threats or trends have been identified in this regard.

II. Consolidated list

2. New Zealand has two regimes that implement the various obligations contained in Security Council Resolutions 1267 (1999), 1333 (2000), and 1390 (2002). Both regimes apply to the individuals who, and groups or bodies which, appear on the list drawn up by the 1267 Committee.

The first regime comprises regulations made under the United Nations Act 1946, which is the usual means of giving effect in New Zealand to Security Council sanctions resolutions. When Resolution 1267 was adopted, New Zealand implemented the obligations in that resolution by promulgating the UN Sanctions (Afghanistan) Regulations 1999. These regulations were subsequently revoked and replaced with the UN Sanctions (Afghanistan) Regulations 2001, to give effect to the obligations in both Resolution 1267 and 1333. These regulations were in turn amended in 2002 to reflect requirements by UN Security Council Resolution 1390. The regulations, in their amended form, continue to apply certain sanctions on what are termed "specified entities", namely, the Taleban, Usama bin Laden, and Al Qaeda, together with associated individuals and groups that the 1267 Committee has designated.

The second regime is more general in nature and aimed primarily at implementing obligations in UN Security Council Resolution 1373, with a particular focus on the obligations relating to the financing of terrorism. To the extent that the financing obligations contained in the Afghanistan Resolutions overlap with those in Resolution 1373 they have been subsumed within this broader regime. Initially New Zealand gave

effect to Resolution 1373 by interim regulations also made under the United Nations Act (the UN Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2001). These regulations were replaced in October 2002 by the Terrorism Suppression Act 2002, which contains a more comprehensive regime aimed, in particular, at combating terrorist financing.

Under the Terrorism Suppression Act the Prime Minister, in consultation with certain other Ministers, may designate individuals, groups or bodies, as "terrorist entities" if certain statutory criteria are met. These essentially require some evidence of a link to a "terrorist act" (as defined). There is provision to make an "interim" designation in the first instance, which can be done quickly but lapses after 30 days unless a final designation has been made. A final designation requires a higher evidential threshold to be satisfied (i.e. "reasonable grounds to believe" that the entity has had a particular kind of involvement in one or more terrorist acts). If an entity appears on a UN Security Council list of terrorist entities that is "sufficient" evidence of involvement. (The Act makes it clear that the provision is intended to apply to the list that the 1267 Committee has established.)

Under transitional provisions contained in the Act, the individuals and groups to which the Afghanistan Regulations applied at the date the Act came into force are treated as if a final designation had been made in respect of each of them. This therefore covers all individuals and groups whose names appeared on the 1267 list as at 18 October 2002. Since then it has been necessary to make a separate designation in relation to each individual or group added to the 1267 Committee list. This is being done as required. When a designation is made, banks and other financial institutions are notified to ensure that they check their records promptly. There is also public notification. A designation is not permanent.

A final designation remains in force for three years but can be revoked within that period. At the end of three years the designation may be extended for a further three-year period. This requires the Attorney General to apply to the High Court, which must be satisfied, on the balance of probabilities that the statutory criteria apply. This would not be a difficult threshold to meet if the particular entity remained on a UN list and had continued its involvement in terrorism. Further extensions can be made for three-year periods if the necessary threshold continues to be met. Designation has a number of consequences for the entity. In particular, any assets discovered are frozen and can eventually be forfeited. This is discussed further below.

3. No problems have been identified.

4. No designated individuals or entities have been identified.

5. New Zealand has nothing to report in this regard.

6. Not applicable.

7. Not applicable.

8. The UN Sanctions (Afghanistan) Regulations 2001 include a number of provisions that are aimed at preventing various forms of support for Al Qaeda. In addition, as part of the measures to implement UN Security Council Resolution 1373, the Terrorism Suppression Act contains three new offences that are relevant in this context because Al Qaeda is a designated entity under the Act:

- It is an offence to recruit people to become members of terrorist groups, knowing that the group or organisation is a designated entity or an entity involved in the carrying out of terrorist acts.

- It is an offence to participate in a terrorist group, knowing that the group or organisation is a designated entity or an entity involved in the carrying out of terrorist acts and where the purpose of the participation is to enhance the ability of the entity to carry out terrorist acts.

- It is an offence to provide or collect funds, intending or knowing that they are to be used for financing terrorist acts (This is the offence required to be created under the International Convention for the Suppression of the Financing of Terrorism.)

These offences apply not only to conduct in New Zealand and but also outside New Zealand in specified circumstances, for example, if the alleged offender is a New Zealand citizen. All these offences are punishable by a maximum of 14 years imprisonment.

The Counter-Terrorism Bill currently before Parliament includes a number of additional measures aimed at strengthening New Zealand's ability to combat terrorism generally. Several new offences are to be created including an offence of harbouring or concealing terrorists. This will also be able to be used in relation to those appearing on the 1267 Committee List.

III. Financial and economic asset freeze

9. Firstly, the domestic legal basis to implement the asset freeze required by Resolution 1267 and Resolution 1290 is covered by significant changes New Zealand made to its domestic laws relating to the freezing of funds and other financial assets or economic resources of persons or groups believed to be involved in terrorism.

In October 2002 the New Zealand Parliament passed the Terrorism Suppression Act. As noted above in question two, the Act not only implements measures in UN Security Council Resolution 1373 but also incorporates the financing aspects of the three Afghanistan resolutions. The Act replaced the interim regime contained in the UN Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2001. These regulations (and their predecessors) had included standard provisions relating to the freezing of assets of "specified entities" (i.e. those named in the List issued by the 1267 Committee). However, a review of the obligations in UN Security Council Resolution 1373 suggested that a more comprehensive regime was needed. The key features of the new regime are as follows:

- The freezing and forfeiture regime in the Act is premised on an individual or group first being designated in accordance with the statutory procedure described in question 2. (The entity to be designated may, but does not have to, appear on a UN list.)

- A financial institution that, or other person who, suspects on reasonable grounds that property in their possession is or may be owned or controlled, directly or indirectly, by a designated entity, or is derived or generated from such property, must report the suspicion to the Police as soon as practicable. Failure to do so is an offence.

- The effect of designation is to freeze the assets of the entity because it is an offence knowingly to deal with property owned or controlled by designated entities or to make property or financial or related services available to such an entity. These offences carry a maximum penalty of 7 years imprisonment.

- These is provision to exempt certain dealings, for example, to give effect to the exceptions for humanitarian and extraordinary expenses contemplated in Resolution 1452)

- These is provision to exempt certain dealings, for example, to give effect to the exceptions for humanitarian and extraordinary expenses contemplated in Resolution 1452)

- If property is frozen the Prime Minister can direct that the property be passed across to the Official Assignee who is responsible for its management pending eventual forfeiture. (The Official Assignee has a similar role where suspected proceeds of crime are frozen under the Proceeds of Crime Act 1991.)

- There are safeguards for the interests of innocent third parties.

- Frozen property can eventually be forfeited but this first requires an order of the High Court.

No impediments have been identified in New Zealand's domestic law in this context as no financial assets, funds or economic resources of persons or groups believed to be involved in terrorism have yet been identified.

10. New Zealand Police is the lead government agency in New Zealand's response to countering terrorism domestically. Within New Zealand Police, structures have been established to provide for intelligence and investigative functions relating to terrorism. These are complemented with a broader cross sector response to UN resolutions relating to counter terrorism.

11. Financial institutions in New Zealand are required to adhere to "know your customers" principles in accordance with the provisions of the Financial Transactions Reporting Act 1996. Accordingly, where associations maintain bank or other accounts the flow of funds in and out of these accounts will be subject to ongoing due diligence scrutiny by the relevant New Zealand institution. Moreover, scrutiny of these types of accounts is likely to be relatively stringent because of the nature of associations and the ordinary banking risks that they pose. These risks exist because the accounts are operated with multi-signatories, who are acting on behalf of an organisation that normally does not have significant assets and where the financial institution must be assured about the legitimate authority of those issuing payment instructions on the account.

Accordingly, payments into the accounts not related to the usual activities of an association of that type, (i.e. transfers overseas or large scale cash withdrawals) are likely to be construed as out of the ordinary and therefore potentially suspicious. Financial institutions have a current obligation under the UN Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2001 to report to the New Zealand Police anyone they suspect may be holding funds linked to designated terrorists.

More generally financial institutions are required under the Financial Transactions Reporting Act to report any transactions that they suspect as being linked to money laundering to the New Zealand Police. Therefore, the New Zealand financial system places reliance on "know your customer" principles to monitor account activity to ensure that funds in those accounts are not diverted to terrorist activities.

Charitable organizations diverting funds to terrorist activities would be caught by the regimes under both the existing regulations and the Terrorism Suppression Act.

12. No assets have been frozen to date.

13. Not applicable as no assets have been frozen.

14. Please refer to questions two above for the domestic legal basis in place to control the movements of funds or assets to designated individuals and entities.

Regarding the methodology for informing banks, when an entity is added to the 1267 Committee List, the New Zealand Police sends a written notification to all registered banks informing them of the names of those entities listed. The New Zealand Police also issues press releases and formal notification is set out in public governmental notice boards. The Terrorism Suppression Act sets out that reporting requirements extend to all financial institutions, and financial institutions are under general obligations to report suspicious financial transactions under Financial Transaction Reporting legislation. 'Financial institutions' are defined under Financial Transaction Reporting legislation to include non-bank financial institutions. Restrictions on the movement of commodities such as gold, diamonds and other related items are covered in the Terrorism Suppression Act in that they come under the definition of 'funds' and 'property'.

Alternate remittance practices such as or similar to "hawala" are currently subject to the Financial Transaction Reporting legislation as they come within the definition of a financial institution. However, New Zealand at this time does not require licensing or registration of such businesses.

IV. Travel ban

15. The prohibition on entry into or transit through the territories of UN Member States is given effect in New Zealand by the UN Sanctions (Afghanistan) Regulations 2001, as amended in 2002.

Regulation 12A prohibits the entry of persons designated by the UN Security Council 1267 Committee into New Zealand, or their transit through New Zealand, except in accordance with the exception contained in paragraph 2(b) of UN Security Council Resolution 1390. As a safeguard the regulation also provides that no permit or visa can be issued to allow entry unless the Secretary of Foreign Affairs and Trade advises that its issue would be consistent with New Zealand's obligations under the Resolution. Regulation 12A operates in addition to the requirements of the Immigration Act 1987, and any measures that may be taken in accordance with that Act to restrict entry to New Zealand.

16. Border alerts are activated in those cases where New Zealand Police have sufficient details to activate this process.

17. Border alerts are administered through the Police Interpol Office whenever a change to the terrorist entity designations is made.

18. No

19. A 'nationality flag' has been placed on the New Zealand Immigration Service's Application Management System (AMS). It alerts any officer processing in AMS to an application from any nationals from Angola, Sierra Leone, Liberia and Afghanistan and all applicants are referred to the Ministry of Foreign Affairs and Trade so they can check the name against the published list. Approval for nationals of these countries to enter or transit New Zealand will only be given on the advice of the Ministry of Foreign Affairs and Trade. Appropriate procedures are in place to facilitate this decision. In order to place an individual "alert" on AMS we require the person's surname, date of birth, sex, country of birth and nationality. The New Zealand Immigration Service would welcome any additional identifying information from the 1267 Committee on individuals on the List, to enable them to better implement the provisions of the sanctions. The New Zealand Immigration Service is not aware of any visa applicant to date whose name appears on the List.

V. Arms embargo

20. New Zealand is a member of the four main international export control regimes: the Wassenaar Arrangement (military and dual-use goods), the Australia Group (chemical and biological), the Nuclear Suppliers Group and the Missile Technology Control Regime. The controlled items under these regimes are adopted by New Zealand in the New Zealand Strategic Goods List (NZSGL). This is implemented under the Customs Export Prohibition Order 2002, promulgated under the Customs and Excise Act 1996. The NZSGL is updated annually to reflect agreed changes in the control regimes. The exports of goods that fall within the NZSGL are prohibited except with the consent of the Secretary of Foreign Affairs and Trade. The Ministry of Foreign Affairs and Trade refers to set criteria in deciding whether to grant consent. One of the criteria against granting permission is whether there is potential for the goods to be used in any terrorist activity.

21. The UN Sanctions (Afghanistan) Regulations 2001 as amended in 2002, contains a number of provisions that relate to the arms embargo:

- Regulation 4 prohibits the direct or indirect export of arms and related material from New Zealand to a "specified entity" (i.e. an entity designated by the 1267

Committee). This provision operat tes in addition to the existing procedure in the Customs Export Prohibition Order, r, which restricts certain exports. Regulations 5, 6 and 8 go on to give certain p owers in relation to exports prohibited under Regulation 4 ('prohibited exports'). For example, a Customs officer may detain any goods he or she suspects on rea asonable grounds to be prohibited exports.

- Regulation 7 prohibits the loading g of prohibited exports onto ships or aircraft. The obligation is placed on the ma aster of the ship or the pilot of the aircraft to prevent any such loading.

- Regulation 9 contains a general l prohibition on transactions by people in New Zealand, or by New Zealand citizens elsewhere, involving arms, where the person knows that the arms are int tended to be imported by a specified entity, or are to be supplied or delivered to, o or to the order of, a specified entity.

- Regulation 10 prohibits the ca arriage of arms to specified entities by New Zealand ships or aircraft and or those chartered to any New Zealand citizen or body incorporated in New Zeala and

- Regulation 12 contains a genera al prohibition on the provision of technical assistance or training to, or at the request of, any specified entity that relates to the provision, manufacture, mainte enance, or use of arms or related materiel.

A person who contravenes any of these r regulations commits a criminal offence and is liable accordingly. If any ship or aircraft i is used in contravention of regulation 10, there is potential, depending on the circumsta nces, to charge various people, including the owner, charterer, master of the ship, or the e pilot.

It is also possible that particular contraver entions of the arms embargo may amount to an offence under another statute, for instance e, one of the general offences contained in the Arms Act 1982 or the Crimes Act 1961.

22. New Zealand has a comprehens sive arms licensing regime. Only licensed individuals are able to purchase a firear rm. Stringent vetting processes relate to any application for an arms license.

23. Please refer to question 20 above e. The Ministry of Foreign Affairs and Trade also has the discretion to ask for an end-u user certificate from the exporter to ensure that the goods will not be diverted.

VI. Assistance and conclusion

24. New Zealand is currently working (along with other donors) to assist Pacific Island countries to implement effective law enforcement and border control legislation as the basis for the criminalisation of terrorist activities. New Zealand and Australia recently helped fund an Expert Working Group (February 2003 in Suva) to develop model counter terrorism legislation for the Pacific region.

25. No areas identified.

26. The passage of the Terrorism Suppression Act in October 2002 not only enabled New Zealand to implement key aspects of UN Security Council Resolution 1373 and, as noted above, the Afghanistan Resolutions, but also included the measures needed to give effect to the International Convention on the Suppression of Terrorist Bombings (1997) and the International Convention on the Suppression of the Financing of Terrorism (1999). New Zealand became a party to both conventions in November 2002 and is now party to 10 of the 12 international instruments on terrorism. As noted above, the Counter-Terrorism Bill includes a range of additional measures to combat terrorism. Included in the bill, which is expected to be passed later this year, are the provisions needed to implement the two remaining terrorism conventions: the Convention on the Physical Protection of Nuclear Material (1979) and the Convention on the Marking of Plastic Explosives for the purposes of Detection (1991).

Terrorism can also be seen as a form of transnational crime, which is a growing problem for all countries. In recognition that international initiatives are needed but can be effective only if they enjoy widespread support, New Zealand also passed legislation in 2002 to implement the UN Convention against Transnational Organised Crime and two of its protocols, on the Trafficking of Persons and Smuggling of Migrants. New Zealand was already in compliance with the obligations in the Convention relating to money laundering and the reporting of suspicious financing transactions but did need to make a small number of other amendments. These included the creation of the offences of people smuggling and participation in an organised criminal group. The legislation also made a number of changes to improve the effectiveness of laws relating to travel documents, including increasing the penalties for the use of fraudulent or forged documents. New Zealand ratified the Convention and two Protocols in July 2002.

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Note verbale dated 17 April 2003 from the Permanent Mission of Mauritius to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Mauritius to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to forward herewith the report of Mauritius on the implementation of resolution 1455 (2003), adopted by the Security Council on 17 January 2003.

03-35137 (E) 030603

Annex to the note verbale dated 17 April 2003 from the Permanent Mission of Mauritius addressed to the Chairman of the Committee

Report on the implementation of United Nations Security Council resolution 1455 (2003)

1. INTRODUCTION

Mauritius has been supportive of all international initiatives to combat international terrorism. In August 2002, when Mauritius submitted its report pursuant to para 2 of Resolution 1390 (2002), the 1267 Committee was informed of the measures put in place by the authorities to implement UNSC resolution 1390 (2002).

Following the enactment of the Prevention of Terrorism Act 2002, the Financial Intelligence and Anti-Money Laundering Act 2002 and the Prevention of Corruption Act 2002, the Prevention of Terrorism (Special Measures) Regulations were passed and came into operation on 25 January 2003. These regulations were amended to cater for obligations under UNSC resolution 1452(2002) and the Prevention of Terrorism (Special Measures)(Amendment) Regulations came into effect on 29 March 2003. (A copy of the Regulations is at annex 1) *

The Committee of Senior Officials set up by the Government of Mauritius to monitor implementation of UNSC resolutions 1390 (2001) and 1455 (2003) as well as other UNSC resolutions to combat terrorism including UNSC 1373 (2001) is coordinating with various Ministries and departments for proper implementation of the obligations of Mauritius under these resolutions.

The 1267 Committee may wish to note that so far no activity of Usama Bin Laden, Al Qaida, the Taliban and their associates has been reported in Mauritius.

II Consolidated List

2. ***How has the 1267 Committee list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control customs and consular authorities?***

Provision has been made for the incorporation of the 1267 Committee list in Part II, section 10 (1) (b) (c) (4) of the Prevention of Terrorism Act. Subsection (1) allows the Minister to declare any person to be a suspected international terrorist, *inter alia*, where

(I) the person is listed as a person involved in terrorist acts in any **Resolution of the United Nations Security Council** or any instrument of the Council of the European Union; or

* The enclosure referred to in the report is on file with the Secretariat, room S-3055, and is available for consultation.

(ii) the person is considered as a person involved in terrorist acts by such State or other organization as the Minister may approve.

As per section 10(4), the Minister may declare a group to be an international terrorist group if the group, *inter alia*:

(i) is listed as a group or entity involved in terrorist acts in any Resolution of the United Nations Security Council or in any instrument of the Council of the European Union; or
(ii) is considered as a group or entity involved in terrorist acts by such competent authority of such State as the Minister may approve.

As per section 10(6) of the Prevention of Terrorism Act 2002, the Minister may, with respect to any suspected international terrorist or international terrorist group, make regulations to provide:

(i) for the freezing of his or its funds, financial assets or other economic resources, including funds derived from property, owned or controlled directly or indirectly by him or it, by persons acting on his or its behalf or at his or its direction;
(ii) for the prevention of his or its entry into, or transit in, Mauritius;
(iii) for the prohibition of the direct or indirect supply, sale and transfer to him or it of arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, spare parts and related material and technical advice, assistance or training related to military activities;
(iv) that any person who contravenes any regulations made under this subsection shall commit an offence and shall, on conviction, be liable to penal servitude for a period not exceeding 5 years

As per section 10(7) of the Act, the Minister shall give notice of any declaration made under subsections (1) and (4) of section 10.

As soon as the 1267 Committee list is received at the Ministry of Foreign Affairs and Regional Cooperation, it is communicated to the financial supervision authorities and law enforcement agencies for necessary action at their end.

2.1 Financial Supervision Authorities

(a) Bank of Mauritius

The Bank of Mauritius by virtue of regulatory powers vested upon it, provides all institutions under its jurisdiction with the UNSC Consolidated List as updated from time to time and requires those institutions to report to the Bank of Mauritius any account which the persons or organizations mentioned in the Consolidated List hold with them and to seek the approval of the Bank of Mauritius before executing any request for any transactions in respect of these persons/organizations.

(b) Financial Services Commission

The Financial Services Commission (FSC) has been following diligently all the obligations of Mauritius under relevant United Nations Resolutions in particular, resolutions 1373 (2001), 1390 (2002), 1455 (2003) in respect of combating the financing of terrorist activities

All UNSC resolutions with respect to combating the financing of terrorism are sent to the licensees in the financial services sector with express instructions that the necessary checks must be carried out and that any exceptions should be reported to the Commission. The Financial Services Commission has also updated its statistical data and check for possible links with names listed by the UN Security Council. So far, neither the FSC nor any of its licensees has identified any link with any suspected terrorists or terrorist organisation

2.2 Law Enforcement Agencies

Police Department (including Immigration)

All the names and entities in the 1267 Committee Consolidated list have been added to the control list of the Passport and Immigration Office and are regularly updated in accordance with the provisions of relevant UNSC resolutions including 1390(2002).

Pursuant to UNSC resolution 1390 (2002) and subsequent directives issued during security meetings by authorities in Mauritius, the contents of the resolution are communicated to responsible officers at the various branches of the Police Force to sensitise all personnel working under their orders to be more watchful and to adopt a more proactive approach towards surveillance.

The Mauritius Police Force has upgraded its security system with a view to strengthening and optimizing the use of its resources in the prevention of terrorism. The level of alertness of the entire Police Force has been heightened. Both overt and covert vigilance are maintained.

Special emphasis is being laid on security at Sir Seewoosagur Ramgoolam International Airport and Port Louis Harbour, which are the two points of entry and exit. In this context, the Immigration services have tightened control at these two strategic points where a series of measures such as closer scrutiny and verification of travel documents and passenger profiling are being carried out. Moreover, security at the harbour has been consolidated to ensure a thorough check on all vessels and craft arriving and departing. Patrols are conducted in the exclusive economic zone including major passes through which smaller craft can approach or enter Mauritius as well as the airspace of Mauritius.

3. ***Has Mauritius encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems?***

No problem of the implementation with regard to the names and identifying information included in the list has been encountered.

Additional particulars of the persons/entities/organizations listed in the list would be welcome.

4. ***Have the Mauritian authorities identified inside the territory of Mauritius any designated individuals or entities?***

There has been no evidence so far to indicate that any individual, organization or entity appearing in the 1267 Committee Consolidated List has been in the territory of Mauritius.

5. ***Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al Qaida that have not been included in the list, unless to do so would compromise investigations or enforcements actions?***

There has been no report of any terrorist related activities by any individual or entity not in the Consolidated List.

6. ***Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against the Mauritius authorities for inclusion in the list?***

No.

7. ***Has Mauritius identified any of the listed individuals as nationals or residents of Mauritius? Do your authorities have any relevant information about them not already in the list?***

None of the listed individuals has been identified as national or resident of Mauritius. Efforts are continuing to ascertain whether any listed individual is a national or resident of Mauritius.

8. ***According the national legislation, please describe any measure you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country and to prevent individuals from participating in Al-Qaida training camps established in the territory of Mauritius.***

There is no evidence of Al-Qaida training camps established in Mauritius. Part II of the Prevention of Terrorism Act 2002 prohibits acts of terrorism, terrorist meetings and

support in relation to an act of terrorism, or to a proscribed organization. "Support" includes instigation to the cause of terrorism and an invitation to adhere to a proscribed organisation.

III. FINANCIAL AND ECONOMIC ASSETS FREEZE

9 ***Please describe briefly:***

- ***The domestic legal basis to implement the asset freeze required by the resolutions 1267, (1999) and 1390 (2002)***

The Prevention of Terrorism Act 2002 was enacted on 19 February 2002 and is fully operative in Mauritius since 16 March 2002. The Act contains provisions for the freezing of funds relating to terrorism and also for the prevention, suppression and combating of terrorism, new offence relating to terrorism generally including the financing of terrorism; reinforcing intelligence gathering: investigatory and enforcement measures; cooperation with foreign jurisdictions in the matter of terrorism

Part III of the Prevention of Terrorism Act 2002 deals with the financing of terrorism and *inter-alia* provides for the freezing of assets/funds, measures relating to terrorist cash and terrorist property.

Section 13 of the Prevention of Terrorism Act 2002 provides that the Commissioner of Police, may, whether or not any proceedings have been brought for an offence in connection with the terrorist cash, seize cash when he reasonably suspects that the cash is intended to be used for the purposes of terrorism; belongs to, or is held on trust for, a proscribed organisation, is or represents property obtained through acts of terrorism. The Commissioner may seize cash even if he reasonably suspects only part of the cash to be terrorist cash where it is not reasonable to seize that part only of the cash.

An offence under Section 11 of the Prevention of Terrorism Act 2002 is punishable by penal servitude for a term not less than 5 years nor more than 20 years (Section 32(1)(b) of the Act). The Court may, also under section 32 of the Act, in addition to the penalty imposed, order the forfeiture of any terrorist cash, with any accrued interest, or terrorist property; any article, substance, device or material by means of which the offence was committed; any vehicle or vessel used in the commission of the offence.

Section 10(6) of the Prevention of Terrorism Act 2002 also enables the Minister to whom responsibility for the subject of national security is assigned to make with respect to any suspect international terrorist or an international terrorist group, regulations to provide for the freezing of his or its funds, financial assets or other economic resources, including funds derived from property owned or controlled directly or indirectly, by him or it, by persons acting on his or its behalf or its direction.

Part II of the Financial Intelligence and Anti-Money Laundering Act (2002) sets out the acts or activities, which constitute money-laundering offences. It defines a

suspicious transaction as a transaction which gives rise to .. reasonable suspicion that it may involve the laundering of money or the proceeds of any crime including any offence concerning the financing of any activities or transactions related to terrorism as specified in Part III of the Prevention of Terrorism Act.

Section 3 of the Financial Intelligence and Anti Money Laundering Act imposes on banks, financial institutions, cash dealers and professional such as accountants, lawyers, obligations to take such measures as are reasonably necessary to prevent their services being used as a channel for money laundering.

Sections 4 and 5 of the Financial Intelligence and Anti Money Laundering Act 2002 re-enact the provisions relating to offences of conspiracy to commit the offence of money laundering and payment in cash in excess of a specified amount.

A civil procedure is made before the Judge in Chambers by way of an affidavit for an order of attachment to confiscate the proceeds of crime or assets to finance terrorism as provided for under section 16 of the Prevention of Terrorism Act 2002.

The Prevention of Terrorism (Special Measures) Regulations (2003) also provide for the freezing of assets and funds of suspected international terrorists and terrorist groups.

The Mauritius authorities are also currently working for the enactment of legislation for the proper implementation of the obligations under the Convention for the Suppression of Financing of Terrorism prior to ratification of the Convention.

10. ***Please describe any structures or mechanisms in place within your Government to identify and investigate Usama Bin Laden, Al-Qaida or Taliban related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.***

The Anti-Money Laundering and Combating of Financing of Terrorism Committee (AML-CFT) comprising officials of the Prime Minister's Office, Ministry of Finance, Attorney General's Office, Ministry of Foreign Affairs & Regional Cooperation, Ministry of Economic Development, Financial Services and Corporate Affaires, Bank of Mauritius, Financial Services Commission, Financial Intelligence Unit, Commissioner of Drugs, Independent Commission Against Corruption (ICAC), Police Department coordinate action to identify and investigate Usama Bin Laden, Al-Qaida or Taliban related financial networks or those organizations entities/persons who provide to support to them.

Section 9 of the Financial Intelligence and Anti-Money Laundering Act (2002) provides for the establishment of the Financial Intelligence Unit (FIU), which is essentially a central intelligence-gathering unit to compile information about money

laundering activities and other proceeds of crime and make it available to the investigative authorities. The FIU is already in operation.

The Mauritius Police cooperates internationally in respect of the exchange of criminal information and police cooperation through Interpol channels. The Mauritius Police has also concluded cooperation between Member States of the Southern African Development Community (SADC) which provides for cross-border investigations and operations in general and can therefore be used for counter-terrorist investigations and operations.

Mauritius has bilateral agreements with France and Madagascar regarding mutual assistance between Customs Administrations of both countries for the prevention, detection and suppression of all customs offences, including drug trafficking. Mauritius is a contracting party to the Nairobi Convention under the aegis of the World Customs Organisation which is a multilateral arrangement for assistance especially for the exchange of information and surveillance of suspected people, goods or means of transport in the fight against all types of customs offences and drug trafficking.

11. ***Please convey the steps banks and/or financial institutions are required to take to locate and identify assets attributable to, or for the benefit of Usama Bin Ladan or members of Al-Qaida or the Taliban or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.***

(a) **Bank of Mauritius**

The Bank of Mauritius provides all institutions under its jurisdiction with the UNSC Consolidated List as updated from time to time and requires those institutions to report to the Bank of Mauritius any account which the persons/organizations mentioned in the Consolidated List hold with them and to seek the approval of the Bank of Mauritius before executing any request for any transactions in respect of these persons/organizations.

Mindful of the risks (including reputational risks) involved, the Bank of Mauritius imposed on 5 March 2003, a deadline for financial institutions under its jurisdiction to confirm the existence or otherwise of any account or transaction with persons/organizations mentioned in the 1267 Committee Consolidated List.

It has been reported to the Bank by: -

(i) Category 1 banks (formerly domestic banks), Category 2 banks, (formerly offshore banks) and non-bank deposit taking institutions that the persons/organizations mentioned in the Cousolidated List issued by the 1267 Committee do not maintain any account with them.

(ii) Foreign exchange dealers and moneychangers that those persons/organizations have not executed any transactions with them.

The Bank of Mauritius also issued, in January 2001, Anti-Money Laundering Guidance Notes for the financial services sector. These Guidance Notes, which were initially in relation to money laundering, have now been revised and updated to include legislative changes that have taken place in Mauritius both in relation to Anti-Money Laundering and Combating the Financing of Terrorism, the recommendations made by the Basel Committee on Banking Supervision in the Customer Due Diligence paper for Banks and the Guidance for Financial Institutions in detecting Terrorist Financing issued by the Financial Action Task Force.

The Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism also contain provisions on ***"Know Your Customer"*** procedures, internal controls, record-keeping, recognition and reporting of suspicious transactions, education and training in respect of anti-money laundering and the financing of terrorism.

Compliance with the required law and regulations and Guidance Notes issued by the Bank of Mauritius is monitored through off-site and on-site supervision regularly carried out by the Bank of Mauritius.

Furthermore, Regulations under section 10(6) of the Prevention of Terrorism Act (2002) have been enacted and are in force in Mauritius as from 25 January 2003. These Regulations empower the Bank, by notice, to direct that any account, property or funds held by financial institutions under its regulating authority on behalf of any listed terrorist be frozen and a report made to it in such form and manner as it deems fit.

(b) Financial Services Commission

In addition to existing legislative measures, the Financial Services Commission has finalised three separate Codes on the Prevention of Money- Laundering and Terrorist Financing which are applicable to Management Companies and Investment Businesses respectively. These Codes will come into force on 18 April 2003.

These Codes set out the minimum criteria that the Financial Services Commission will use to assess how its licensees in the financial services sector in Mauritius have protected their business from potential abuse by money launderers and terrorists. These Codes further stress the importance of the ***"Know Your Customer"*** procedures and the requirement for licensees to verify the identity of all clients.

Moreover, the Financial Services Commission has enhanced its approach to onsite compliance testing. Through an ongoing cycle of visits, the Financial Services Commission, *inter-alia*, ensures that the due diligence procedures and other requirements in respect of money laundering and financing of terrorism are being adhered to by its licensees.

12. ***Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a***

list of the assets that have been frozen pursuant to resolution 1267 (1999), 1333 (2001) and 1390(2002). Please include to the extent possible in each listing the following information:

- *Identification(s) of the person or entities whose assets have been frozen*
- *A description of the nature of the assets frozen (i.e. bank deposits, securities, business assets, precious commodities, work of art, real estate property and other assets)*
- *The value of assets frozen*

So far, as no transaction in connection to the individuals and entities listed by the UNSC 1267 Committee has been reported in Mauritius, there has been no freezing of assets.

13. *Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide, reasons, amounts unfrozen or leased and dates.*

No financial assets or economic assets believed to be related to Usama Bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities have been reported in Mauritius.

14. *Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), states are to ensure that no funds, financial assets or economic resources are made available directly or indirectly to listed individuals.*

The existing legislation (Prevention of Terrorism Act (2002), Financial Intelligence and Anti-Money Laundering Act 2002 and the Prevention of Terrorism (Special Measures) Regulations 2003 provide the legal framework to ensure that no funds, financial assets or economic resources are made available directly or indirectly to listed individuals.

The relevant Departments (Financial Services Commission, Bank of Mauritius, Financial Intelligence Unit and Department of Police) are monitoring closely to ensure that no funds, financial assets or economic resources are made available directly or indirectly to listed individuals.